



## NEWSLETTER

APRIL 2023

Suman Jyoti Khaitan  
(Editor)

Ms. Surabhi Chhabra  
(Co-Editor)

Mr. Suman Jyoti Khaitan, Advocate, Founder of the Firm Suman Khaitan & Co., Advocates, New Delhi, is pleased to offer you the newsletter for the month of April 2023 published by Suman Khaitan & Co.

Suman Khaitan & Co. is a full-service law firm covering a comprehensive range of legal areas. The firm has been established with a view to blend the experience of several generations of lawyers with young talent with a dynamic business-oriented approach.

The newsletter is a compilation of judgments and recent news associated with the legal industry.

We heartily thank all the readers for their warm response and welcome your views, comments, and suggestions on the cases, content, and further improvement of the newsletter. Furthermore, if you would like any other information from the legal world to be made available to you, please do write to us at [info@sumankhaitanco.in](mailto:info@sumankhaitanco.in)

Happy Reading!

## **INSOLVENCY AND BANKRUPTCY:**

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- ❖ In *M/s. Ven Infra Projects v. M/s. Valentis Laboratories Private Ltd.*,<sup>1</sup> the National Company Law Tribunal, Hyderabad Bench, held that an Application for initiation of Corporate Insolvency Resolution Process by operational creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“the Code”) shall not be maintainable if the demand notice is not as per the prescribed format under the Code and the Insolvency & Bankruptcy Code (Application for Adjudicating Authority) Rules, 2016.
- ❖ In *Brijesh Singh Bhadauriya v. Pinakin Shah*,<sup>2</sup> the National Company Law Appellate Tribunal, Principal Bench, held that the Order approving the Resolution Plan cannot be interfered with on a mere allegation that the Interim Resolution Professional or the Resolution Professional has not conducted the Corporate Insolvency Resolution Process in accordance with law and no specific grounds or reasons are provided for the same.
- ❖ In *M/s. State Bank of India v. M/s. Hackbridge Hewittic and Easun Ltd.*,<sup>3</sup> the National Company Law Appellate Tribunal, Chennai Bench, ruled that submission of One Time Settlement (“OTS”) is clearly acknowledgement of debt by the Principal Borrower as per Section 18 of the Limitation Act, 1963 and any fresh or subsequent or modified OTS would extend the limitation period by three years.

## **MERGERS OR ACQUISITIONS:**

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- ❖ Leading Indian insurtech startup ‘InsuranceDekho’ has acquired ‘Verak’, a Mumbai-based Small and Medium-sized Enterprise (“SME”) insurance distribution company. With this, InsuranceDekho will have a stronger foothold in the rapidly growing market and a stronger presence in the SME insurance vertical and micro-business insurance schemes.
- ❖ ‘HCAH’, an out-of-hospital healthcare provider, has acquired ‘Nightingales Home Health Services’, a specialty home healthcare service provider, in a share swap deal. The acquisition will further increase HCAH’s geographic footprint in the country.
- ❖ ‘Toprankers’, an edtech platform has acquired ‘ProBano’, a career guidance platform a career guidance platform for high school students aged 13-18 in India. With the inclusion

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<sup>1</sup> CP(IB) No.54/09/HDB/2020.

<sup>2</sup> Company Appeal (AT) (Insolvency) No. 456 of 2023.

<sup>3</sup> Company Appeal (AT) (CH) (Ins.) No. 05 of 2021.

of ProBano's expertise in career guidance and counselling, Toprankers is designing a career discovery and experience platform that will enable high school students to explore their passions and offer skill-building opportunities across diverse career domains.

## **INTELLECTUAL PROPERTY RIGHTS:**

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- ❖ In *Bpi Sports LLC v. Saurabh Gulati & Anr.*,<sup>4</sup> the Hon'ble High Court of Delhi observed that 'trademark squatting', an internationally known intellectual property misdemeanour, would amount to "bad faith" under the Trade Marks Act, 1999 even if the term does not find a special mention in the law.
  
- ❖ In *Microsoft Technology Licensing v. The Assistant Controller of Patents and Designs*,<sup>5</sup> the Hon'ble High Court of Delhi observed that an invention should not be deemed as a "computer program per se" under the Patents Act, 1970 merely because it involves algorithms and computer-executable instructions but the decision should be based on the technical advancements it offers and its practical application in solving real-world problems.
  
- ❖ In *The Himalayan Club v. Kanwar B. Singh*,<sup>6</sup> the Hon'ble High Court of Bombay observed that a dispute over the ownership of Facebook group does not pertain to intellectual property and the Civil Court has the jurisdiction to try and decide the suit.

## **INDIRECT TAXATION:**

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- ❖ In *Bharat Sanchar Nigam Ltd. v. Union of India*,<sup>7</sup> the Hon'ble High Court of Delhi ruled that for the purpose of refund of tax under the Central Goods and Services Tax Act, 2017, it is erroneous to assume that the application, which is accompanied by the specified documents, is required to be treated as complete only after the taxpayer furnishes the clarification of further documents as may be required by the proper officer and that too from the date such clarification is issued.
  
- ❖ In *Commissioner of CGST and Central Excise v. M/s Edelweiss Financial Services Ltd.*,<sup>8</sup> the Hon'ble Supreme Court of India ruled that issuance of a corporate guarantee to a group company without consideration is not a taxable service.

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<sup>4</sup> 2023:DHC:2920.

<sup>5</sup> C.A.(COMM.IPD-PAT) 29/2022.

<sup>6</sup> 2023: BHC-AS:8860.

<sup>7</sup> 2023:DHC:2482-DB.

<sup>8</sup> 2023 LiveLaw (SC) 281.

## **THE COMPETITION COMMISSION OF INDIA (“CCI”):**

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- ❖ The CCI vide Press Release No. 05/2023-24 approved acquisition of 5.51% of the equity share capital of Mukand Sumi Special Steel Limited (“MSSSL”) by Jamnalal Sons Private Limited (“JSPL”) from Mukand Limited (“Mukand”). MSSSL is engaged in the business of manufacturing, marketing, selling, distribution etc. of special and alloy steel hot rolled bars and hot rolled wire rods. JSPL is primarily an investment and lending company. Mukand is involved in the manufacture of speciality steel products & heavy machinery.
- ❖ The CCI vide Press Release No. 06/2023-24 approved the acquisition by Berhyanda Limited (Acquirer) for up to 76.10% of the voting share capital of Suven Pharmaceuticals Limited (Target), by way of a share purchase agreement dated 26 December 2022.

## **EMPLOYMENT AND LABOUR:**

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- ❖ In *Nina Lath Gupta v. Union of India*,<sup>9</sup> the Hon’ble High Court of Delhi has held that if a termination order is founded on allegations, the order is stigmatic and punitive and services of an employee cannot be dispensed with without affording him an opportunity of defending the accusations/allegations made against him in a full-fledged inquiry.